HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO.6045 OF 2005

PETITIONER Preetam Das, S/o Dula Ram
Aged about 48 years,
R/o Chakarbhata, Bilaspur (C.G.)

Vs.

RESPONDENTS

1. State of Chhattisgarh
Through its Secretary
Department of Housing and
Environment Mantralaya,
DKS Bhawan, Raipur (C.G.)
2. Municipal Corporation,
Through its Commissioner
Bilaspur (C.G.)

Present: Mr. R. Pradhan, learned counsel for the petitioner.

Mr. Utkarsha Verma, learned Dy. G.A., for the State.

Mr. A.S. Kachchawaha, learned counsel for the Municipal Corporation.

ORAL ORDER
(Passed on 12th January, 2006)

This writ petition is preferred under Article 226 of the Constitution of India against the notice issued by the Municipal Corporation, Bilaspur, the second respondent herein, calling upon the petitioner herein to remove the unauthorized construction made on corridor within three days from the date of receipt of the notice. Of course, in the writ petition, it is asserted by the petitioner that the allegation made against him by the second respondent is not correct. Opposing the writ petition, the second respondent has filed a detailed reply in which it is specifically averred that the petitioner has

encroached upon the corridor space and put up construction illegally. What emerges from the pleadings filed in this case is the factual controversy. The controversy brought before the Court cannot be resolved only on the basis of affidavits and counter – affidavits. In order to grant the relief and in order to resolve the factual controversy, it becomes imperative for the Court to undertake the fact-finding and the fact finding is not possible without permitting the parties to lead evidence and tender witnesses for cross-examination by each other. In that view of the matter, I am not inclined to entertain this writ petition. The writ petition is, therefore, dismissed, however, reserving liberty to the petitioner to work out his legal remedies by instituting a suit before the jurisdictional civil Court. All the contentions raised by the parties are left open to be agitated before the civil Court. No costs.

Sd/-
Chief Justice